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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Fifty-second session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Concluding observations of the Committee on the Elimination of Racial Discrimination

Yugoslavia

1. The Committee considered the eleventh, twelfth, thirteenth and fourteenth periodic reports of Yugoslavia (CERD/C/299/Add.17) at its 1260th, 1261st and 1262nd meetings, held on 11 and 12 March 1998, and adopted, at its 1272nd meeting, held on 19 March 1998, the following concluding observations.

A. Introduction

2. The Committee expresses its appreciation to the State party for the report submitted as well as for the additional information provided orally by the delegation. The Committee also expresses its satisfaction for the resumption of dialogue with the State party, interrupted since 1995, and welcomes the commitment to continue that dialogue as a means to facilitate the implementation of the Convention in Yugoslavia.

3. The Committee regrets, however, that the report contains information almost exclusively on legislation and not on the implementation of such legislation. It also regrets that the report does not respond to the concluding observations on Yugoslavia made by the Committee in 1993. The absence of any such response restricts the possibilities for a fruitful dialogue with the State party on the issues raised in those observations.

B. Factors and difficulties impeding the implementation of the Convention

4. It is acknowledged that Yugoslavia is experiencing an acute crisis with serious consequences in terms of demographic, social, economic and political developments. International sanctions, the repercussions of the war in Bosnia and Herzegovina and the presence in its territory of about 700,000 refugees adversely affect the enjoyment of human rights, including those protected by the Convention.

C. Positive aspects

5. The statement made by the State party during the oral dialogue indicating its intention to pursue cooperation with all international mechanisms for the protection of human rights is noted.

6. The Committee takes note of the statement that the Government of the Republic of Serbia is inviting the International Committee of the Red Cross to visit Kosovo and Metohija, and urges the State party to immediately grant the ICRC and other humanitarian organizations free access to Kosovo.

7. It is noted that since the Committee's good-offices mission in 1993, some progress has been made, with the participation of the Albanian population, towards the normalization of the health care system in the province of Kosovo and Metohija.

8. The Committee notes the statement made by the Government of the Republic of Serbia to the effect that all questions relating to Kosovo and Metohija should be resolved within Serbia by political means and in accordance with international standards in the field of protection of the rights of national minorities.

D. Principal subjects of concern

9. Concern is expressed at the lack of implementation of the memorandum of understanding on the normalization of education in Kosovo and Metohija, signed by President Milosevic and representatives of the Albanian population in September 1996.

10. Concern is expressed about continuing reports indicating that, despite constitutional and legal safeguards, access of certain minorities to education, public information and cultural activities in their own language is not fully guaranteed.

11. Concern is expressed at the limitations imposed by the 1989 Act on Special Conditions for Real Property Transactions, on the transactions between members of different groups and about the fact that the law is being unevenly and arbitrarily implemented, depending on the applicant's ethnicity and place of residence.

12. It is noted with regret that there has been no follow-up to the good-offices mission of the Committee in 1993. The purpose of the mission was to help promote a dialogue for the peaceful solution of issues concerning respect for human rights in the province of Kosovo and Metohija, in particular

the elimination of all forms of racial discrimination, and to help the parties concerned to arrive at such a solution. As a result of the mission, the Committee proposed to the State party that a number of specific steps, particularly in the fields of education and health care, be taken with a view to normalizing the situation in Kosovo. Although the Committee expressed a willingness to continue the dialogue within the framework of the good-offices mission, no response was received from the State party.

13. Concern is also expressed at persisting violations in Kosovo and Metohija of basic human rights standards, including article 5 (a) and (b) of the Convention, requiring that arrested persons be brought promptly before a judge, and prohibiting torture and ill-treatment of persons in detention or in the course of demonstrations. Equal concern is expressed about the impunity that perpetrators of such violations seem to enjoy.

14. The Committee is concerned that disproportionate use of force by law enforcement agencies and the military against the Albanian population in the province of Kosovo and Metohija has resulted in numerous violations of the right to life, destruction of property and displacement.

15. Although the State party has argued that its recent actions in Kosovo and Metohija were carried out exclusively with a view to combating terrorism, the Committee notes with serious concern that a great number of victims of the recent events are civilians, including women and children whose deaths cannot be justified by any means. It states that any attempt to push for a military solution of the long-standing crisis in Kosovo could have distressing consequences.

16. It is regretted that the cooperation of the State party with the International Criminal Tribunal for the Former Yugoslavia remains insufficient and that individuals indicted by the Tribunal for war crimes and crimes against humanity are not put at its disposal.

E. Suggestions and recommendations

17. The Committee recommends that the information provided orally in response to a wide range of questions raised by the members be incorporated in the next periodic report due on 24 July 2000. That report should also contain information on the following issues:

(a) Cases in which the Convention has been invoked in decisions or other acts adopted by courts or administrative organs;

(b) Cases where decisions and other acts adopted by courts or administrative organs have been invalidated owing to non-compliance with the Convention;

(c) Cases where compensation has been granted for damages caused by officials or State organs involving violation of rights guaranteed by the Convention;

(d) Cases where measures have been taken against organizations carrying out activities promoting racial hatred and discrimination; cases that might have been brought before the constitutional courts in this respect;

(e) Cases where proceedings have been instituted for the crimes of violation of citizens' right to equality, infringement of citizens' right to use their mother tongue, incitement of national, racial and religious hatred or any other act of racial discrimination.

18. Efforts should be pursued in order to guarantee full enjoyment by members of all minorities of their rights to public information and cultural activities, as well as education in their own language, whenever possible.

19. The Committee recommends that the Government of Yugoslavia take measures to incorporate human rights programmes in school curricula. Such programmes should also include the provisions of the Convention, with a view to promoting the prevention of racial discrimination.

20. Recalling its General Recommendation XXI, the Committee expresses the opinion that a solution for Kosovo and Metohija includes a status of the highest level of autonomy for this part of the State party as a means for everyone to enjoy their human rights and in particular to eliminate all forms of racial discrimination.

21. The Committee calls on all parties to ensure implementation of the memorandum of understanding on the normalization of education in Kosovo and Metohija.

22. The Committee urges the State party to carry out a full and independent investigation of the incidents that occurred in Kosovo and Metohija following the recent military operations and to bring to justice those responsible for any act involving a disproportionate use of force.

23. The Committee recommends that the State party cooperate fully with the International Criminal Tribunal for the Former Yugoslavia, in particular by handing over those indicted by the Tribunal for war crimes and crimes against humanity.

24. It is also noted that the State party has not made the declaration provided in article 14 of the Convention, and some members of the Committee request that the possibility of making the declaration be considered.

25. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention.